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## FAX COVER SHEET

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From: Robert C. Hawkins

Client/Matter: Friends

Date: August 22, 2013

Documents: Comments on Lido Villas MND

Pages: 3\*

COMMENTS: Original will follow as indicated.

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## LAW OFFICES OF ROBERT C. HAWKINS

August 22, 2013

Via Facsimile Only

Michael L. Toerge, Chair  
Members of the Planning Commission  
c/o Makana Nova, Assistant Planner  
Department of Community Development  
City of Newport Beach  
100 Civic Center Drive, Area "C"  
Newport Beach, California 92660

Re: Comments on the Mitigated Negative Declaration ("MND") for the Lido Villas Project- (PA2012-146) located at 3303 and 3355 Via Lido (the "Project").

Greetings:

Thank you for the opportunity to comment on the captioned matter. This firm represents Friends of Dolores, a community action group dedicated to ensuring compliance with state and local laws including the California Environmental Quality Act, Public Resources Code sections 21000 et seq., Friends of City Hall, a community action group dedicated the preservation of the "City Hall" area for civic purposes, and others in the City in connection with the captioned matter.

Although we have not had an opportunity to comment on the captioned DMND and plan to offer extensive comments at any subsequent hearing, we offer these initial comments on an important matter ignored in the DMND and misunderstood in the Staff Report: the Section 423, Greenlight initiative, requires a vote for the captioned project.

The California Environmental Quality Act, ("CEQA"), Public Resources Code sections 21083 and 21083.5 requires that environmental analysis include an analysis of the Project's cumulative impacts. However, the MND contains no such analysis. Importantly, it fails to analysis the pending City Hall Re-use Project.

More importantly, the MND contains no analysis of the Greenlight requirements of the City's Charter. Section 423 requires:

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Michael L Toerge, Chair  
Members of the Planning Commission

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*"Charter Section 423 requires an analysis of the density, intensity, and peak hour traffic associated with a proposed General Plan Amendment ('GPA'). When increases in density, intensity, and peak hour traffic of a proposed GPA 11 along with 80 percent of the increases of prior amendments exceed specified thresholds, the proposed GPA is considered to be a 'major amendment' that requires voter approval. The specified thresholds are 100 dwelling units (density), 40,000 square feet of floor area (intensity), and 100 peak hour trips (traffic). City Council Policy A-18 establishes the Guidelines for implementation of City Charter Section 423 and provides specific guidance as to the density, intensity and traffic thresholds for the analysis."*

City Hall Reuse, Negative Declaration, page 112-113 (Emphasis in original). The Negative Declaration and supporting Staff Reports recognized that the City Hall Reuse Project which includes 99 residential units would take all units and square footage under Section 423. Therefore, the City Hall Reuse environmental document and supporting staff reports recognize that the Project requires a vote.

The Staff Report attempts to include a Section 423 analysis but it fails to consider the City Hall Reuse Negative Declaration. This Commission heard and recommended approval of the City Hall Reuse MND but the City Council continued the matter "indefinitely." The City Hall Reuse Negative Declaration remains the only environmental analysis for the City Hall Reuse Project, which includes 99 dwelling units.

Staff may argue that the Council has decided not to move forward with the residential project and therefore the above is inapplicable. However, this is in error. As indicated above, the only environmental analysis of the City Hall Reuse Project remains the Negative Declaration. The City has not withdrawn that document or issued a Notice regarding any proposed alternative project. Hence, under the current sets of Project, the captioned Project will require a vote under Section 423.

The MND must be revised to include analysis of the Section 423 problems.

In addition, the MND refers to the Lido Village Village Design Guidelines. However, these Guidelines are not regulatory and have not regulatory effect. Nonetheless, the MND still regards them as regulatory and relies on the Guidelines to show that the Project will have no impacts. The MND must be revised to include an analysis of the environmental impacts for the compliance with such non regulatory Guidelines.

In conclusion, the MND is totally inadequate. Good and sound policy reasons and good planning require the preparation of an EIR. Such an EIR would analyze all impacts including Section 423 and those caused by compliance with any guidelines, and any other impacts, would include a discussion of Project alternatives which is necessary for the Project to go forward, and would allow the City to override any significant an unmitigated impacts.

Michael L. Toerge, Chair  
Members of the Planning Commission

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August 22, 2013

Thank you, again, for the opportunity to comment on the FMND. Please provide us with notice of any responses to these comments in a non-italicized format and with notices of any and all hearings on the captioned project and fmnd.

Of course, should you have any questions, please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

  
By: Robert C. Hawkins

RCII/kw

cc: Leilani Brown, City Clerk (Via Facsimile Only)

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